

REMARKS

In the outstanding official action, claim 1 was rejected under 35 USC 112 as being indefinite because of the use of the label I_{delta} for the delta current when the radiation source is driven in the second mode. In response, claim 1 has been reviewed in this regard, and a correction has been made regarding the indefinite recitation of "the a delta current" so that this term properly reads "a delta current", and it is respectfully submitted that the recitations regarding the delta current are now clear and definite such that claim 1 is in full compliance with §112. With regard to the suggestion that the delta current when the radiation source is driven in the second mode should be labeled as something other than I_{delta} , it is respectfully submitted that the term I_{delta} is a variable and is thus properly used for both occurrences. It is noted that this position is further supported by the recitation of claim 3, wherein two specific values of the delta current I_{delta} are recited as $I_{\text{delta-2}}$ and $I_{\text{delta-1}}$. Thus, it is respectfully submitted that it is clear and definite to recite a variable parameter, and subsequently to recite two specific values of this parameter.

On the merits, claims 2, 3, 5, 6, 9-11, 13 and 15 were deemed to be allowable if placed in independent form, while claims 1, 4, 7, 12 and 14 were rejected under 35 USC 013(a) as being

unpatentable in over Burley, for the reasons of record.

In response, it is respectfully submitted that rejected independent claims 1 and 7, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited and applied reference for the reasons detailed below. Accordingly, while the indication of allowability of several of the dependent claims is noted with appreciation, these claims have not been placed in independent form at the present time, pending a final determination of patentability of the rejected claims from which they depend.

More specifically, independent claims 1 and 7 have been rejected as obvious over a single reference, although it is admitted in the Action that there are substantial omissions in the cited reference with respect to both of the independent claims. Thus, with regard to claim 1, it is admitted that Burley does not disclose the patentably significant steps of determining the delta current based on the threshold current using a function F and calibrating the function F by determining the radiation power and delta current at different temperatures (resulting in different threshold currents). With respect to independent claim 7, it was admitted that Burley does not disclose a threshold current determining means, a delta current determining means, a delta current generator, an estimated delta current generator, delta

current outputting means and calibration means.


It is respectfully submitted that the admission that the reference does not disclose a plurality of essential recited elements in each of the independent claims establishes the patentability of those claims. Absent the impermissible use of hindsight derived from the instant disclosure, there is no apparent reason why one of ordinary skill in the art would incorporate all of the numerous important limitations recited in these claims and the manner in which they are interrelated and employed to result in the instant invention. Clearly it would require undue and impermissible experimentation to derive all of the recited features of the instant invention admittedly not disclosed in the reference.

The foregoing argument is further supported by the fact that the elements not disclosed in the Burley reference but present in the instant invention result in a substantially improved method and device capable of controlling radiation power even under changing conditions such as temperature changes, thus controlling radiation power precisely even at increased writing speeds, as detailed on pages 2-3 of the instant specification.

In view of the foregoing, it is respectfully submitted that the current-pending claims are clearly patentably distinguishable over the cited and applied reference, and that claim 1, as herewith amended, now fully complies with the requirements of §112.

Accordingly, allowance of the instant application is respectfully submitted to be justified at the present time, and favorable consideration is earnestly solicited.

Respectfully submitted,

By 

Steven R. Biren, Reg. 26,531
Attorney
(914) 333-9630